REMARKS

Claims 1-75 are pending in the present application. Claims 1-7, 11, 15, 19, 20, 24, 25, 27, 30-36, 40, 44, 48, 49, 53-59, 63, 67, 71 and 72 were amended. Reconsideration of the claims is respectfully requested.

Amendments were made to the specification to correct errors and to clarify the specification. No new matter has been added by any of the amendments to the specification.

INTERVIEW SUMMARY

On October 27, 2004, Examiner Elmore and the undersigned attorney discussed the claimed technology, the rejections and amendments to the claims. No agreement was reached.

I. Double Patenting Rejections

The Examiner has provisionally rejected claims 1-75 under obviousness-type double patenting over claims 1-32 of co-pending application 09/960,448.

Obviousness-type double patenting is a judicially created doctrine intended to prevent improper timewise extension of the patent right by prohibiting issuance of claims in a second patent which are not "patentably distinct" from the claims of a first patent. *In re Braat*, 937 F.2d 589, 19 U.S.P.Q.2d 1289, 1291-92 (Fed. Cir. 1991); *In re Vogel*, 422 F.2d 438, 441, 164 U.S.P.Q. 619, 622 (CCPA 1970). Where the patent application at issue has the same filing date as the cited reference or application, the need for such a doctrine has been obviated by amendments to 35 U.S.C. § 154. The term of a patent under the present statute extends:

> . . . 20 years from the date on which the application for the patent was filed in the United States or, if the application contains a specific reference to an earlier filed application or applications under section 120, 121, or 365(c) of this title, from the date on which the earliest such application was filed.

35 U.S.C. § 154(a)(2). Thus, there is no longer any possibility of impermissibly extending a patent term since all patents claiming the benefit of a given filing date, or having the same filing date, will expire simultaneously, regardless of when issued.

The cited application, 09/960,488 and the present application have the same filing date. Thus, obviousness-type double patenting rejections do not apply to either application. Accordingly, Applicants respectfully request that the rejection be withdrawn.

II. 35 U.S.C. § 102, Anticipation

II.A. Basis for the Rejections

The Examiner has rejected claims 1-75 under 35 U.S.C. § 102(e) as being anticipated by Uchida, Content Distribution Method and Content Distribution System, U.S. Patent Application Publication 2001/0035814 (Nov. 1, 2001) under the assertion that Uchida teaches the invention as claimed. This rejection is respectfully traversed.

II.B. Summary of Legal Requirements

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). All limitations of the claimed invention must be considered when determining patentability. *In re Lowry*, 32 F.3d 1579, 1582, 32 U.S.P.Q.2d 1031, 1034 (Fed. Cir. 1994). Anticipation focuses on whether a claim reads on the product or process a prior art reference discloses, not on what the reference broadly teaches. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 U.S.P.Q. 781 (Fed. Cir. 1983).

II.C. Summary of Claimed Technology

The claimed technology is directed to maintaining consistent content among a set of data sources, whereby clients accessing any given data source will always receive the same content. This is accomplished by using an originating data source to send a signal to the set of data sources to indicate that new content is present. New content is sent to each data source within the set of data sources; however, the content is unavailable until a

second signal is received from the originating data source. The second signal is sent after each data source within the set of data sources sends an acknowledgement to the originating data source that each data source has received the new content. Thus, the claimed methods and devices require an acknowledgement from the set of data sources before content becomes available to clients. Furthermore, the claimed methods and devices require that a first signal be sent from an originating data source to a set of data sources.

II.D. Summary of the Uchida Technology and Contrast of the Uchida Technology with the Claimed Methods and Devices

In contrast, Uchida shows a method of restricting access to content based on biometrics (fingerprint data). A server transmits content to a client only if the client transmits fingerprint data to the server. Similarly, Uchida discloses transmitting content to a client, but only allowing the client access to the content if the client transmits fingerprint data to a security system present on the client. In either case, in contrast to the claimed methods and systems, Uchida does not require that the server receive an acknowledgement from the client that new data is present before causing the server to send a second signal to the client to grant access to the content. Doing so serves no purpose in the Uchida method because Uchida only requires one signal to gain access to content (entry of fingerprint data), not two (an acknowledgement signal and a second signal) as claimed. In addition, Uchida does not show sending a first signal from an originating data source to a set of data sources indicating that new content is present for the set of data sources.

II.E. Rejections of Claims 1, 11, 16, 20-21, 24-27, 30-31, 40, 45, 49-50, 53, 63, 68 and 72-73

II.E.1 Summary of Claims 1, 11, 16, 20-21, 24-27, 30-31, 40, 45, 49-50, 53, 63, 68 and 72-73

Claims 1, 11, 24-25, 30-31, 40, 53 and 63 contain similar claim language and are directed towards methods and devices for maintaining content consistency among data

sources. The claims are directed to methods in a data processing system, a data processing system, and a computer program.

Claims 16, 26, 45 and 68 contain similar claim language and are directed towards methods and devices for maintaining content consistency, wherein the clients upload the data.

Claims 20-21, 27, 49-50 and 72-73 are directed towards methods and devices for maintaining content consistency among a plurality of nodes.

II.E.2. Rejections of Claims 1, 11, 24-25, 40, 53, and 63

Regarding claims 1, 11, 24-25, 30-31, 40, 53 and 63, the Office Action states that Uchida shows the claimed method, referring to paragraphs 73 through 77 in Uchida. The relevant portions of the cited text are as follows:

> The content distributed from the specified-content distribution unit 24 is accumulated in the content accumulation unit 18a of the user terminal 10. Upon reception of the content, the terminal 10 notifies the user of the condition in an appropriate way. When the user (who has requested a use of content) desires to use the distributed content, he or she is required again to input his or her fingerprint...
>
> When the user inputs from the user terminal 10 items necessary to use the distributed content, the terminal 10 requires the user to input a fingerprint for the purpose of confirming whether or not he or she is a person who has requested the content distribution. In response to the request for inputting a fingerprint, the user inputs his or her fingerprint from the fingerprint sensor 11 of the terminal 10 in accordance with a predetermined procedure...

Uchida, ¶¶ 73-74.

In paragraphs 73 and 74, Uchida discusses 1) sending content from a server to a client, 2) notifying the client that the content has already arrived, 3) prompting the client to receive fingerprint input from the user and 4) granting access to the content if the entered fingerprint data matches reference fingerprint data.

Claim 1, as amended, is representative of the claimed technologies and reads as follows:

> 1. A method in a data processing system for minimizing inconsistency between a set of data sources, the method comprising:

sending from an originating data source a first signal to the set of data sources indicating that new content is present for the set of data sources;

transmitting the new content to the set of data sources, wherein the new content is unavailable for distribution by the set of data sources until a second signal from the originating data source is received by the set of data sources; and

sending the second signal from the originating data source to the set of data sources if the originating data source receives an acknowledgement signal from each data source in the set of data sources, wherein an acknowledgement signal comprises a signal indicating that a data source received the new content.

In contrast to Uchida's method, claim 1 as amended requires sending a first signal from an originating data source to the set of data sources indicating that new content is present for the set of data sources. Uchida does not show sending a signal from the server to the client in order to indicate that new content is present for the client. Thus, Uchida does not anticipate claim 1 as amended.

Furthermore, claim 1 as amended requires that the originating data source send a second signal to the set of data sources to grant access to the content if the originating data source receives an acknowledgement from each data source that each data source received the new content. Uchida does not show this limitation. Instead, Uchida shows granting access to the content only if the client receives fingerprint data from the user. At most, Uchida might show that the server or client grants access to new content if a signal is sent from the client that the submitted fingerprint data matches reference fingerprint data. However, Uchida does not show granting access on the basis that the client received the new content as claimed. Doing so would vitiate Uchida's purpose, which is to prevent unauthorized users from accessing content. Thus, Uchida does not anticipate claim 1 as amended.

II.E.3 Rejections of Claims 16, 26, 45 and 68

Regarding claims 16, 26, 45 and 68 the Office Action ignores limitations of the claims. Claims 16, 26, 45 and 68 require that the *client* upload the new content to the data sources. Claim 16, which is representative of these claims, reads as follows:

16. A method in a data processing system for providing content, the method comprising:

receiving new content from a customer;

transmitting the new content to a set of data sources, wherein the new content is unavailable for distribution by the set of data sources until a selected signal is received by the set of data sources; and

sending the selected signal to the set of data sources if an acknowledgment is received from all of the set of data sources.

Uchida does not teach this limitation. Instead, Uchida is only interested in preventing unauthorized clients from receiving new content derived from elsewhere. Thus, Uchida does not anticipate claims 16, 26, 45 and 68.

II.E.4 Rejections of Claims 20-21, 27, 49-50 and 72-73

Regarding claims 20-21, 27, 49-50 and 72-73, the Office Action ignores limitations of the claims. Claims 20-21, 27, 49-50 and 72-73 require the step of monitoring for acknowledgements from the plurality of nodes, wherein the plurality of nodes makes new content available after receiving the acknowledgement from all nodes within the plurality. Claim 20, which is representative of these claims, reads as follows:

20. A method in a data processing system for minimizing a window of inconsistency in data between a plurality of nodes, the method comprising:

sending a new content signal indicating that new content is present for the plurality of nodes;

monitoring for acknowledgments from the plurality of nodes; and responsive to receiving acknowledgments from all nodes within the plurality of nodes, sending a publish signal to the plurality of nodes, wherein the signal causes the plurality of nodes to make the new content available when the publish signal is received.

Uchida does not show all of the limitations of these claims. At most, Uchida shows making content available from only one server. Furthermore, the Uchida method follows a single path: Content is sent or requested by a client, fingerprint data is requested from the user, fingerprint data is entered by the user, and access to the content is subsequently authorized or unauthorized.

In contrast, the claimed methods follows multiple paths. A signal is sent indicating that new content is present for the *plurality* of nodes, and content is made available responsive to receiving acknowledgements *from all nodes*. Uchida simply does not discuss making content available based on acknowledgements from a plurality of users. Thus, Uchida does not anticipate claims 20-21, 27, 49-50 and 72-73.

II.E.5. Rejection of Claims 30-31

Claim 30 as amended requires that the originating data source receive an acknowledgement signal from each data source before generating a signal that makes content available on the set of data sources, wherein the acknowledgement signal comprises a signal indicating that a data source received the new content.

Claim 30 as amended reads as follows:

> 30. A data processing system for minimizing inconsistency between a set of data sources, the data processing system comprising:
>
> first sending means for sending from an originating data source a first signal to the set of data sources indicating that new content is present for the set of data sources;
>
> transmitting means for transmitting the new content to the set of data sources, wherein the new content is unavailable for distribution by the set of data sources until a second signal from the originating data source is received by the set of data sources; and
>
> second sending means for sending the second signal to the set of data sources if the originating data source receives an acknowledgement signal from each data source in the set of data sources, wherein an acknowledgement signal comprises a signal indicating that a data source received the new content.

Uchida does not teach all of the limitations. Uchida does not show granting access on the basis that the client simply received the new content as claimed. Doing so would vitiate Uchida's purpose, which is to prevent unauthorized users from accessing content. Thus, Uchida does not anticipate claim 30 as amended.

Claim 31 as amended requires that the data sources receiving an acknowledgement signal make new content available after a period of time. Uchida does not teach this limitation. By analogy, Uchida would allow a user to access content without entering fingerprint data simply by waiting long enough. Doing so vitiates the purpose of Uchida's method, which is to prevent unauthorized access to content. Thus, Uchida does not anticipate claim 31 as amended.

II.F. Rejections of Claims 2, 31 and 54

Regarding claims 2, 31 and 54, Applicants have amended the claims to place the claim in independent format. The Office Action rejects claims 2, 31 and 54 under the assertion that Uchida, in paragraphs 5-13 teaches as "normal operation of a web based

node as not all connected nodes will be involved in a given transaction." Claim 2 as amended, which is representative of these claims, is as follows:

> 2. A method in a data processing system for minimizing inconsistency between a set of data sources, the method comprising:
>
> sending from an originating data source a first signal to the set of data sources indicating that new content is present for the set of data sources;
>
> transmitting the new content to the set of data sources, wherein the new content is unavailable for distribution by the set of data sources until a second signal from the originating data source is received by the set of data sources; and
>
> sending the second signal to each data source returning the acknowledgment after a period of time has passed without every data source in the set of data sources returning the acknowledgment.

In contrast to Uchida, claims 2, 31 and 54 as amended require that every data source be involved in the transaction. In addition, Uchida does not teach granting access to the new content after a period of time. If Uchida had taught this, then Uchida would have specified that new content would be available to the user, without entering fingerprint data, if the user simply waited long enough. This is contrary to Uchida's methods and devices, which restrict the access of content to authorized users. Thus, Uchida does not anticipate claims 2, 31 and 54 as amended.

II.G. Rejections of Claims 3, 32 and 55

Regarding claims 3, 32 and 55, the Office Action asserts that Uchida teaches removing a node (a data source as amended) from the set of nodes if the node fails to return an acknowledgement. The Office Action refers to paragraphs 18-22 in Uchida. Claim 3, which is representative of these claims, reads as follows:

> 3. The method of claim 2 further comprising:
> removing a data source from the set of data sources if the data source fails to return the acknowledgment within the period of time.

The Examiner misapprehends Uchida and the claims. Paragraphs 18-22 only describe Uchida's system of requiring fingerprint data before content is accessed. The fact that content has been arranged for periodic distribution (at different times) is irrelevant to removing entire data sources from a data processing system. By analogy, in order to achieve the claimed limitation, Uchida would have to remove the only server he

uses to distribute content from the system. Doing so would render Uchida inoperable, so clearly Uchida does not teach the claim limitation at issue. Thus, Uchida does not anticipate claims 3, 32 and 55.

In addition, claims 3, 32 and 55 depend from claims 2, 31 and 54 respectively. As discussed in relation to those claims, Uchida does not teach the limitations of those claims. Accordingly, Uchida does not anticipate claims 3, 32 and 55.

II.H. Rejections of Claims 4, 12, 23, 29, 33, 41, 52, 56, 64 and 75

Claims 4, 12, 23, 29, 33, 41, 52, 56, 64 and 75 depend from claims 1, 11, 20, 27, 30, 40, 49, 53, 63 and 72 respectively. The independent claims are patentable over Uchida for the reasons given under subsections II.E.2., II.E.4. and II.E.5. above. Thus, claims 4, 12, 23, 29, 33, 41, 52, 56, 64 and 75 are also patentable over Uchida.

II.I. Rejections of Claims 5, 13, 22, 28, 34, 42, 51, 57, 65 and 74

Claims 5, 13, 22, 28, 34, 42, 51, 57, 65 and 74 depend from claims 1, 11, 21, 27, 30, 40, 50, 53, 63 and 73 respectively. The independent claims are patentable over Uchida for the reasons given under subsections II.E.2., II.E.4. and II.E.5. above. Thus, claims 5, 13, 22, 28, 34, 42, 51, 57, 65 and 74 are also patentable over Uchida.

II.J. Rejections of Claims 6, 15, 35, 44, 58 and 67

Claims 6, 15, 35, 44, 58 and 67 depend from claims 1, 11, 30, 40, 53 and 63 respectively. The independent claims are patentable over Uchida for the reasons given under subsections II.E.2., II.E.4. and II.E.5. above. Thus, claims 6, 15, 35, 44, 58 and 67 are also patentable over Uchida.

II.K Rejections of Claims 7, 14, 17, 19, 36, 43, 46, 48, 59, 66, 69 and 71

Claims 7, 14, 17, 19, 36, 43, 46, 48, 59, 66, 69 and 71 depend from claims 1, 11, 16, 16, 30, 40, 45, 45, 53, 63, 68 and 68 respectively. The independent claims are patentable over Uchida for the reasons given under subsections II.E.2., II.E.3., II.E.4. and II.E.5. above. Thus, claims 7, 14, 17, 19, 36, 43, 46, 48, 59, 66, 69 and 71 are also patentable over Uchida.

II.L Rejections of Claims 8, 18, 37, 47, 60 and 70

Regarding claims 8, 18, 37, 47, 60 and 70, the Office Action asserts that Uchida teaches "billing a set of clients for maintaining content at the set of data sources." The Office Action points to paragraphs 5 and 6 to support the rejection. Claim 8, which is representative of these claims, reads as follows:

> 8. The method of claim 1 further comprising:
> billing a set of clients for maintaining content at the set of data sources.

The Office Action misapprehends the claims and Uchida. In paragraphs 5 and 6 Uchida teaches billing clients to access content. The claims provide for billing clients to *maintain* content at the data sources. Uchida does not teach billing clients to maintain content at data sources. (Uchida is unconcerned billing clients to maintain content because Uchida is unconcerned with clients uploading data to hosts.) Thus, Uchida does not anticipate claims 8, 18, 37, 47, 60 and 70.

In addition, claims 8, 18, 37, 47, 60 and 70 depend from claims 1, 16, 30, 45, 53 and 68 respectively. The independent claims are patentable over Uchida for the reasons given under subsections II.E.2. and II.E.3. above. Thus, claims 8, 18, 37, 47, 60 and 70 are also patentable over Uchida.

II.M. Rejections of Claims 9, 38 and 61

Regarding claims 9, 38 and 61, the Office Action asserts that Uchida teaches "receiving the new content from a client based on a contract with the client to maintain content at the set of data sources." The Office Action refers to paragraphs 5 and 6 to support the rejection. Claim 9, which is representative of these claims, reads as follows:

> 9. The method of claim 1 further comprising:
> receiving the new content from a client based on a contract with the client to maintain content at the set of data sources.

The Office Action misapprehends the claims and Uchida. In paragraphs 5 and 6 Uchida teaches billing clients to access content. The claims teach receiving new content *from a client* based on a contract with the client to *maintain* content at the set of data sources. Uchida does not teach billing clients to maintain content at data sources.

Uchida does not teach maintaining content at the set of data sources. Thus, Uchida does not anticipate claims 9, 38 and 61.

In addition, claims 9, 38 and 61 depend from claims 1, 30, 53 respectively. The independent claims are patentable over Uchida for the reasons given under subsections II.E.2. and II.E.5. above. Thus claims 9, 38 and 61 are also patentable over Uchida.

II.N Rejections of Claims 10, 39 and 62.

Regarding claims 10, 39 and 62, the Office Action states that Uchida teaches "the first signal includes the content." The Office Action refers to paragraphs 14-32 of Uchida to support the rejection. Claim 10, which is representative of these claims, reads as follows:

> 10. The method of claim 1, wherein the first signal includes the content.

Uchida does not anticipate claims 10, 39 and 62 because Uchida does not show an originating data source sending a first signal to a set of data sources indicating that new content is present for the set of data sources. Doing so would be tangential to Uchida's system because Uchida is concerned only with restricting access to content to authorized users.

In addition, the cited text in Uchida merely recites what appear to be claims in prose format. The cited text does not disclose the claimed step. (The cited text is also very lengthy and complex. If the Examiner maintains the rejections, then Applicants request that the Examiner indicate exactly which paragraph the Examiner believes shows the claimed step.) Thus, Uchida does not anticipate claims 10, 39 and 62.

In addition, claims 10, 39 and 62 depend from claims 1, 30 and 53 respectively. The independent claims are patentable over Uchida for the reasons given under subsections II.E.2. and II.E.5. above. Thus, claims 10, 39 and 62 are also patentable over Uchida.

III. Uchida Does Not Render Claims 1-75 Unpatentable

Uchida does not show all of the limitations of the claims as amended. Uchida does not suggest or give any incentive to make the needed changes to achieve the presently claimed inventions. Absent the Examiner pointing out some teaching or incentive to implement Uchida and the claimed method of minimizing inconsistency among data sources, one of ordinary skill in the art would not be led to modify Uchida to reach the present invention when the reference is examined as a whole.

IV. Conclusion

It is respectfully urged that the subject application is patentable over Uchida and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

DATE: November 19, 2004

Respectfully submitted,

Theodore D. Fay III
Reg. No. 48,504
Yee & Associates, P.C.
P.O. Box 802333
Dallas, TX 75380
(972) 385-8777.
Attorney for Applicants